

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 1757	DATE	5/10/2001
CASE TITLE	Division Sales, Inc. Vs. Kmart Corporation		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Memorandum Opinion and Order

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due ____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion and Order. Defendant moved to dismiss or to transfer, based upon a mandatory forum selection provision in the Purchase Order Terms and Conditions Agreement. This case is transferred to the Eastern District of Michigan.
- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail A 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials WAH	ED-7 FILED FOR DOCKETING 01 MAY 11 PM 12:04	number of notices	Document Number 7
			MAY 14 2001 date docketed	
			[Signature] docketing deputy initials	
			date mailed notice	
			mailing deputy initials	

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DIVISION SALES, INC.,

Plaintiff,

vs.

KMART CORPORATION,

Defendant.


No. 01 C 1757

DOCKETED
MAY 14 2001

MEMORANDUM OPINION AND ORDER

Plaintiff brought this contract claim against defendant in state court and defendant removed. Defendant then moved to dismiss or to transfer, based upon a mandatory forum selection provision in the Purchase Order Terms and Conditions Agreement. Plaintiff earlier indicated an intention to oppose the motion, but it has filed nothing in opposition. And it is evident why no opposition has been filed. Forum selection clauses are presumptively valid, and they are to be followed unless enforcement would be unreasonable or unjust or the provision was procured by fraud or overreaching. There is nothing here to suggest that the provision here is anything more or less than it purports to be – a forum selection clause insisted upon by one party to a commercial relationship as a condition of doing business with the other. This case is transferred to the Eastern District of Michigan.

May 10, 2001.


JAMES B. MORAN
Senior Judge, U. S. District Court

7